



City of San Marcos

630 East Hopkins
San Marcos, TX 78666

Meeting Minutes City Council

Wednesday, November 3, 2021

6:00 PM

City Council Chambers/Virtual

630 E. Hopkins

I. Call To Order

With a quorum present, the regular meeting of the San Marcos City Council was called to order by Mayor Hughson at 6:02 p.m. Wednesday, November 3, 2021. This meeting was held in-person and online.

II. Roll Call

Present: 7 - Mayor Pro Tem Melissa Derrick, Mayor Jane Hughson, Council Member Maxfield Baker, Council Member Saul Gonzales, Deputy Mayor Pro Tem Shane Scott, Council Member Alyssa Garza and Council Member Mark Gleason

III. Invocation

A moment of silence was observed.

IV. Pledges of Allegiance - United States and Texas

Deputy Mayor Pro Tem Scott led the assembly in the Pledges of Allegiance.

V. 30 Minute Citizen Comment Period

Jennifer Hayes, volunteer photographer for the animal shelter since March 2018, expressed concern that the shelter has not had a manager for the past year. She expressed concern with transparency and stated in the past all areas of the shelter were open to volunteers and communication was good. She stated the east side of the shelter is locked to volunteers and the public. She stated with the current renovation they are housing one-half of the dogs. Staff stated that visitors would need to be escorted and it is reducing the ability for the public to visit adoptable dogs and for her to take photos. She suggested that one-third of the kennels remain as more of an open place. Ms. Hayes stated staff should spread the word and make efforts to send information to organizations for animals that are deemed at risk. Volunteers give of their time to save lives of animals and she expressed concern that staff has discontinued communication to local advocates. There is a staff shortage and they are over

worked and this is working against advocates. She would like the animal shelter manager to be carefully selected.

Sharri Levine Boyett, provided written comments on the animal shelter programs. She would like the city staff to establish a monthly presentation to include a live presentation by the Neighborhood Enhancement Director to the Mayor & City Council and presented to the partner contracting government entities. The monthly presentation should include a discussion of issues, data, staffing and planning. This will prevent any perceived misinformation and allow for open dialogue and sustainable solutions. She suggested appointing a city council member to the quarterly Animal Shelter Advisory committee. Ms. Levine Boyett would like to improve access for adopters and volunteers, animal shelter hours should match the City library, seven days a week. She stated the animal shelter urgently needs more staff hired and a shelter manager experienced with the No-Kill programs, methods and training. She suggested hiring a Communications & Public Relations Coordinator to work directly onsite at the animal shelter to improve the reputation and Community Support, gain volunteers, donations, and increase successful adoptions, thus reducing costs and the duration stay of animals. She recommends an adoption counselor would improve the stay duration and adoption success retention by checking with adopters after animals go home and arrange community outreach events. A transparent public Facebook page dedicated to prioritizing all pets, especially urgent situations, seniors, medical cases or those with long stay status, it is essential for Rescue organizations to utilize a public, open Rescue Networking Facebook group reflecting all the shelter "inventory" of cats and dogs. Policies, communication and response availability are in need of improvement because staff is overworked.

Katie Deoloz, shared her joy in exploring San Marcos by foot. She has had fun learning about the community and making new friends. She reflected on Veterans Day as a daughter of former marine, and hearing people talk about multi-generational families here in San Marcos. She stated she has never had geographic roots due to her father's time in the military. She thanked council for the opportunity to help transform San Marcos into one of America's most walkable cities; one step at a time. She stated she is proud that she is following her dad's footsteps in serving the community that she lives in. She is excited to attend the Veterans Parade this weekend.

Christen Andrews, provided written comments regarding the animal shelter. She stated as a shelter volunteer representative on the Pawsitive Outcomes Implementation Plan Committee during the time these meetings were taking

place, the collaborative energy was encouraging and felt empowering. It did feel innovative and finally seemed like everyone was on the same team working together to save lives. She expressed concern that city leadership overseeing the shelter made major steps backwards in terms of transparency. She expressed concerns that certain areas of the shelter are inaccessible to volunteers without a staff escort. Urgent needs are no longer communicated to dedicated volunteers and advocates who consistently and successfully help the shelter with much-needed community outreach. The shelter records posted online intentionally omit crucial pieces of information, skewing the full picture of what is happening. Dedicated volunteers can't even ask a simple question about records and get a straight answer. She would like the animal shelter manager to be qualified, passionate about saving every life that can be saved, and committed to embracing community engagement, building strategic partnerships, and fostering a culture of transparency and trust. She recommends each city council member have a representative on the committee, to be aware of what goes on during meetings.

Lisa Marie Coppoletta, expressed concern with the work session procedure. She claimed it is breaking the Texas Open Meetings Act by rendering decisions and giving direction during these meetings. She expressed concern with council making decisions very quickly when it's late at night. She stated she is saving for retirement to turn her two lots into an AirBnB and council is not thinking of the vetted business community. She recommends doing a beta roll out now versus rushing in and making decisions.

PRESENTATIONS

1. Receive a Staff presentation and update on the Blanco Riverine Flood Mitigation project.

Jacque Thomas, Senior Engineer, provided the project status update and the results of the independent technical review of modeling for the Blanco Riverine Flood Mitigation Project. Ms. Thomas provided history of the Blanco River flooding stating the water fills out of the banks and into the Blanco Gardens neighborhood with the uncontrolled flood it impacts structures in the neighborhood. Ms. Thomas mentioned extensive community outreach is being done on the project by sending out community letters, social media posts, monthly website updates, email and personal calls, and community presentations. She mentioned a Mitigation Advisory Committee has been created as required by Community Development Block Grant mitigation grant funding. She stated the role of the committee is to optimize efforts for public communication.

She stated the project has been through an extensive environmental review that includes, extensive categorical analysis on environment, SocioEconomic, and Archeologic impacts that have been conducted by Environmental Experts and the process has been in a three level review through consultant, City Staff and HUD. Ms. Thomas mentioned the importance of the environmental review is to determine compliance with the National Environmental Policy Act (NEPA) and related laws and authorities. It proves no significant impact to the environment and/or establishes necessary mitigation and monitoring activities that provides the City the ability to use grant funds.

Ms. Thomas stated the project is located at Highway 80 and River Road between San Marcos and Blanco River. The project components include a concrete flood wall and turns into a earthen berm, then back to flood wall and berm again. She stated the purpose of the earthen berm is to protect the neighborhood and the San Marcos Water Treatment Plant from overflows of the Blanco River. She mentioned the concrete flood wall and berm will contain the flow in a directed route and direct it to a relief channel that is being constructed.

Ms. Thomas stated the Blanco Gardens depth is up to 3+ feet with flooding of property and structures during peak inundation in a 100-year flood event. She mentioned when the project is completed, the peak inundation depth will be up to 1.25 feet with containment primarily within right-a-way during a 100-year flood event. Ms. Thomas stated the water would recede quicker with the infrastructure of the relief channel, berm and the flood wall.

Ms. Thomas stated a third party was hired to review the modeling approach that layered in additional support and technical expertise. There was no significant changes to the modeling approach and third party verified the design team and City's modeling is technically a sound assessment and no recommended changes are needed. There are no negative impacts upstream or downstream.

Ms. Thomas provided the project schedule:

- Bidding:
 - o Solicitation – March 2022
 - o Council Award and Contract Execution – June 2022
- Construction:
 - o Notice to Proceed – June 2022
 - o Anticipated Project Completion – April 2024
- Closeout:

o Project Closeout – September 2024

Ms. Thomas provided the funding summary with the total project cost at approximately \$20M. The Texas Water Development Board is funding \$2M for the project design and environmental design. The Community Development Block Grant - Disaster Recovery (CDBG-DR) is \$4.4M for the feasibility study, acquisition and relocation. The CDBG-Mitigation (MIT) is funding \$14M for the construction of infrastructure, construction phase services and environmental monitoring.

She stated the project results will reduce flooding within the Blanco Gardens neighborhood, protect structures from flooding up to a 50-year event, and reduce flood risk by half. The project will benefit over 300 structures in a 100-year flood event. This is a vital step towards achieving goal and vision of floodplain protection and provide long-standing value to our community.

Ms. Thomas provided an update on the CDBG-DR and MIT Infrastructure Program as follows:

Uhland Road Improvements - In Construction

Bid: October 2020

Construction Start: March 2021

Blanco Gardens Drainage – Bid Selection

Bid: September 2021

City Council Award: December 7, 2021

Construction Start: January 2022

Blanco Gardens Diversion Channel - Complete

Blanco Riverine Flood Mitigation - 99% Design and Property Acquisitions

Midtown Drainage Improvements - Completed Design

Land Preservation Program - In Review

Flood Early Warning System - In Planning

Signs and Barricades - In Planning

Council Member Baker asked due to the depth of digging near Blanco River, is there anticipation of any archeological evidence and what is the process? Ms. Thomas stated the environmental review requires a test dig be completed if there are items in the area of construction that are documented in the review record. During construction an archeological expert will be onsite during the excavation to monitor. If items are found or identified construction will be halted, it will be reported and necessary steps will be taken. Council Member

Baker asked who gets contacted if materials are found. Justin Holder stated the Texas Historical Commission (THC) would be contacted.

Council Member Gonzales asked if the neighborhood will be impacted during construction and what happens if flood occurs during construction. Ms. Thomas stated the Blanco Gardens drainage project is going to improve the storm drain system. This will be coming to council in December with construction to begin in January. The local drainage improvements will come before the riverine project. She stated multiple projects will be occurring for the next several years and staff will be communicating to residents. Staff confirmed that the completion will be in 2024. Mr. Gonzales asked how the neighborhood would be notified during construction. Ms. Thomas noted they have phone numbers for a number of people in the neighborhood and will likely have a neighbor meeting on the topic.

Mayor Pro Tem Derrick would like a decision made if artifacts are found and if this would apply to this project. Ms. Thomas stated this is federally funded and the requirements for considerations are extensive and plans must be approved by the Texas Historic Commission (THC) and other entities that are involved with archeology or artifacts. While construction is occurring, a THC member will be present every day to monitor.

Mayor Pro Tem Derrick asked if council could impose stricter regulations than what is required by the feds and if it could be done during this project? Ms. Thomas stated staff can provide the plans or the restrictions that are in place and if additions need to occur then discussions can occur. Ms. Derrick would like to review the federal requirements regarding artifacts so Council can create a local ordinance.

Council Member Gleason inquired about the project to improve drainage in the neighborhood. Ms. Thomas confirmed that the alley-ways will be concrete and that project will be two years long.

Council Member Garza would like to see communications with the neighborhood and noting which methods are most successful. This could also be helpful in extreme winter events in the future.

CONSENT AGENDA

A motion was made by Deputy Mayor Pro Tem Scott, seconded by Mayor Hughson, to approve the consent agenda to approve consent agenda items # 1, 2, and 4 - 11. Items 3 and 12 were pulled and considered separately. Council

Member Baker voted no on item #9. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

Against: 0

2. Consider approval, by motion, of the October 4, 2021 Regular Meeting Minutes.
4. Consider approval of Ordinance 2021-88, on the second of two readings, amending Table 2.1 and Section 2.5.5.3(A)(1) to require posted notice of a Public Hearing before the Historic Preservation Commission regarding a request for a certificate of appropriateness; amending Section 4.5.2.1(N)(2) to eliminate the limitation of allowing only one demolition by neglect case to be considered per quarter; and amending Section 4.5.2.1(N)(3) to require notice by certified mail to the owner of a property being cited for demolition by neglect, including procedural provisions; providing for the repeal of any conflicting provisions; and declaring an effective date.
5. Consider approval of Resolution 2021-212R, approving the terms and conditions of an Interlocal Agreement between the City of San Marcos and Texas State University for Water Quality Analytical Testing services in an annual not-to-exceed amount of \$95,000 per year for five years; authorizing the City Manager or his designee to execute the agreement on behalf of the City; and declaring an effective date.
6. Consider approval of Resolution 2021-213R, approving a Change in Service to the agreement with Bio West, Inc, relating to the Rio Vista Falls Repair Project in the amount of \$15,000.00 for continued biological monitoring; authorizing the City Manager or his designee to execute the appropriate documents to implement the Change in Service; and declaring an effective date.
7. Consider approval of Resolution 2021-214R, approving a Change in Service to the agreement with BGE, Inc. relating to the Wallace Offsite Drainage Improvements Project to add services required for preparing an addendum to the original preliminary engineering report to provide analysis of an additional parcel in the estimated amount of \$134,767.00 for a total contract price of \$815,319.00; authorizing the City Manager or his designee to execute the appropriate documents to implement the Change in Service; and declaring an effective date.
8. Consider approval of Resolution 2021-215R, approving an agreement for the provision of services in connection with the proposed owner requested annexation, in Case Number AN-21-06, of approximately 2.1 acres of land, generally located in the 5900 Block of S IH-35; authorizing the City Manager, or his designee, to execute said agreement on behalf of the City; setting a date for a Public Hearing concerning the proposed annexation of said tract of land; and declaring an effective date.
9. Consider approval of Resolution 2021-216R, approving an agreement for the provision of services in connection with the proposed owner requested annexation, in Case No. AN-21-10, of approximately 3.60 acres of land, generally located at the northwest corner of the State

Highway 123 and Clovis Barker Road intersection; authorizing the City Manager, or his designee, to execute said agreement on behalf of the City; setting a date for a Public Hearing concerning the proposed annexation of said tract of land; and declaring an effective date.

10. Consider approval of Resolution 2021-217R, approving a Resolution enacted by the Guadalupe County Appraisal District Board of Directors approving an expansion of the parking lot at the Guadalupe County Appraisal District Seguin location; and providing an effective date.
11. Consider approval of Resolution 2021-218R, authorizing the Mayor to sign a letter of support addressed to the Hays County Office of Emergency Services regarding an application to the Federal Emergency Management Administration for a Hazard Mitigation Planning Grant; and declaring an effective date.
3. Consider approval of Ordinance 2021-45, on the second of two readings, amending Chapter 2, Administration, Article 5, Code of Ethics, by adding a new Division 5 requiring registration of lobbyists and periodic reporting of contacts made by lobbyists with elected City officials, City Board and Commission members, and City Employees; establishing penalties for violations of this ordinance; providing certain exemptions from lobbying registration and reporting requirements; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

MAIN MOTION: a motion was made by Council Member Baker, seconded by Council Member Garza, to approve Ordinance 2021-45, on the second of two readings.

Mayor Hughson stated that the July 6 motion was to postpone to November 3, after the election, but suggested that the intent was to wait until new council member(s) were seated. That will happen on November 15 with the next meeting November 16. She noted this would likely be postponed but wanted to make a few statements first. Mayor Hughson continued with her objections to the ordinance as is and suggested that instead of starting with council members, board and commission members, and other city officials that we start with just council members. In addition, there are a number of flaws in the ordinance, such as the fact that there is not a way to remove oneself from the requirement to report, even if the person is no longer in the business to lobby us. She has 28 amendments and would like to make those known before this is on an agenda again. Mr. Cosentino suggested a new section of the Message Board since the meeting information arrives only the week prior to the meeting. Ms. Hughson agreed.

MOTION TO POSTPONE: a motion was made by Council Member Gleason, seconded by Deputy Mayor Pro Tem Scott to postpone Ordinance 2021-45, on the second of two readings, to the second meeting in January 2022. The

motion carried by the following vote:

For: 4 - Mayor Hughson, Council Member Gonzales, Deputy Mayor Pro Tem Scott and Council Member Gleason

Against: 3 - Mayor Pro Tem Derrick, Council Member Baker and Council Member Garza

12. Consider approval of Resolution 2021-219R, approving a reallocation of no more than \$53,775.00 of American Rescue Plan Funds from Together for a Cause to provide for certain direct payments to local hotels housing persons negatively impacted by the pandemic in accordance with American Rescue Plan standards; authorizing the City Manager, or his designee, to execute all associated agreements on behalf of the City; and declaring an effective date.

A motion was made by Mayor Hughson, seconded by Council Member Gleason, to approve Resolution 2021-219R.

Bert Lumbreras, City Manager, provided a brief presentation. He noted prior council action and stated that on July 6, 2021, City Council adopted Resolution 2021-127R that allocated \$150,000 out of the General Fund to Together for a Cause (TFAC). On August 3, 2021, City Council adopted Resolution 2021-130R that allocated \$100,000 out of the American Rescue Plan Funds to Together for a Cause. He provided the progress to date and stated from July through September, staff coordinated with Together for a Cause to gather appropriate documentation and budget information. In early September staff determined, due to limitations of state law, the City would be unable to fund Together for a Cause. In late September, under the City Manager authority, a payment was authorized in the amount of \$46,225 out of the American Rescue Plan Funds to the hotels in order to reimburse the hotels through September 21, 2021 for clients in the program. During the months of September and October staff researched and reached out to multiple social service agencies regarding the possibility of providing case management services for these residents.

Mr. Lumbreras provided the balance for motel stays. On September 21 the city previously used \$46,225 of the American Rescue Plan funding to pay for hotel bills through this date. As of October 22, there is outstanding balance of \$24,000 for motel stays since Oct. 3. On October 22, a \$10,000 check was provided to cover stays at Best Budget Inn with a remaining balance of \$14,000. On November 3, outstanding balance of approximately \$21,000.

He mentioned the Emergency Rental Assistance (ERA) program available through Hays County. He stated the county program assists with rent, including past due and reasonably accrued late fees. Staff has been actively

working with the County to direct and support eligible families to the program by ensuring they obtain/submit all necessary documentation required to meet the Emergency Rental Assistance program requirements.

Staff recommends that \$53,775 from the American Rescue Plan be used for unpaid hotel stays for TFAC clients and to fund an additional 2 - 3 week transition period. It would pay off the outstanding balance of \$21,000 that has accrued since October 3. He stated \$32,775 is proposed to cover two to three additional weeks of hotel stays for those TFAC clients that are ineligible for the ERA program to allow time for them to transition to alternative arrangements. Staff is working with clients to provide any available resources.

Deputy Mayor Pro Tem Scott wanted confirmation that the outstanding balance that Together for a Cause didn't pay is \$21,000. Mr. Lumbreras stated that is the outstanding balance to the hotels and that is what we know.

Mayor Hughson stated that \$250,000 had been allocated to TFAC for working with clients for transition assistance. This funding is going to the same purpose and this has not changed from what was previously voted on. Mr. Lumbreras confirmed that the allocated money was to be given to TFAC but now it is going directly to the hotels. He stated there was discussion on the possibility to transition to a non-profit organization that could take over management. The goal is to get as many as we can eligible for the County's program.

The motion to approve carried by the following vote:

For: 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

Against: 0

NON-CONSENT AGENDA

- 13.** Consider approval of Ordinance 2021-89, on the first of two readings, designating the City as a Media Production Development Zone; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

A motion was made by Mayor Pro Tem Derrick, seconded by Council Member Gleason, to approve Ordinance 2021-89, on the first of two readings. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

Against: 0

14. Consider approval of Resolution 2021-146R, establishing a Mexican American and Indigenous Heritage and Cultural District generally in the area of Hopkins Street at City Park along the San Marcos River and East of IH-35 to Durango Street and Staples Road, South to Ellis Street and West to Purgatory Creek; and declaring an effective date.

A motion was made by Council Member Gleason, seconded by Mayor Pro Tem Derrick, to approve Resolution 2021-146R. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

Against: 0

15. Hold discussion regarding Recommendation Resolution 2021-01RR, of the Animal Shelter Advisory Committee, regarding revisions to their bylaws, and provide direction to the City Manager.

Council expressed their support on the amendments to the Animal Shelter Advisory Committee. Ms. Cook stated this will be brought forward as a code ordinance amendment, requiring two readings.

Council provided consensus to move forward with the recommendation.

16. Consider approval, by motion, and hold discussion regarding the proposed 2022 City Council Meeting Schedule, and provide direction to Staff.

Mayor Hughson provided a brief overview of the proposed 2022 City Council Meeting schedule. A motion was made by Mayor Hughson, seconded by Council Member Gleason to approve the 2022 City Council Meeting schedule.

Deputy Mayor Pro Tem Scott inquired about adding additional meetings. After discussion, a motion was made by Deputy Mayor Pro Tem Scott, seconded by Council Member Gleason, to postpone discussion on this item to the same meeting when Council discusses the work session meeting procedures.

The motion to postpone carried by the following vote:

For: 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

Against: 0

EXECUTIVE SESSION

17. Executive Session in accordance with the following:
A. Sec. §551.071 of the Texas Government Code: Consultation with Attorney: - To receive

legal counsel regarding state law preemption of city ordinances regulating the sale or use of single-use packages and containers.

- B. Sec. §551.071 of the Texas Government Code: Consultation with Attorney: - To receive legal advice regarding the contract with Together for a Cause.
- C. Sec. §551.071 of the Texas Government Code: Consultation with Attorney: - Blanco Riverine Property Acquisitions.
- D. Sec. §551.072 of the Texas Government Code: Real Property: Exchange of City ROW (Loquat St. & other unopened ROW) for Texas State Property along Sessom Creek

Council met during the Work Session portion of their meeting earlier this afternoon and concluded Executive Session. No additional Executive Session is needed this evening.

ACTION/DIRECTION FROM EXECUTIVE SESSION

- 18.** Consider action, by motion, or provide direction to Staff regarding the following Executive Session item held during the Work Session and/or Regular Meeting:
- A. Sec. §551.071 of the Texas Government Code: Consultation with Attorney: - To receive legal counsel regarding state law preemption of city ordinances regulating the sale or use of single-use packages and containers.
 - B. Sec. §551.071 of the Texas Government Code: Consultation with Attorney: - To receive legal advice regarding the contract with Together for a Cause.
 - C. Sec. §551.071 of the Texas Government Code: Consultation with Attorney: - Blanco Riverine Property Acquisitions.
 - D. Sec. §551.072 of the Texas Government Code: Real Property: Exchange of City ROW (Loquat St. & other unopened ROW) for Texas State Property along Sessom Creek.

Mayor Hughson stated that direction was provided to staff on Items A, C and D. She stated Item B needed as it was posted for action on the regular agenda (item #12), discussed at that time, and approved

VI. Question and Answer Session with Press and Public.

None.

VII. Adjournment.

A motion was made by Mayor Pro Tem Derrick, seconded by Deputy Mayor Pro Tem Scott, to adjourn the regular meeting of the City Council at 7:43 p.m. The motion carried by the following vote:

For: 7 - Mayor Pro Tem Derrick, Mayor Hughson, Council Member Baker, Council Member Gonzales, Deputy Mayor Pro Tem Scott, Council Member Garza and Council Member Gleason

Against: 0

Tammy K. Cook, Interim City Clerk

Jane Hughson, Mayor